IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21487 of 2004

Between:

K.D. Reddy, S/o. Late Gopal Reddy,
R/O. East Anand Bagh, Malkajigiri, Hyderabad.

..... PETITIONER

AND

1 APSRTC, Nalgonda Region,

Nalgonda, Rep. by its Regional Manager.
2 APSRTC, Bus Depot,

Suryapet, Nalgonda District, Rep. by its Depot Manager.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction particularly one in the nature of WRIT OF MANDAMUS declaring the impugned proceedings No.P2/785(16)/04-SRPT, dt. 03-11-2004 served on 11-11-2004 as illegal, unjust in violation of Art. 14, 16 & 21 of the Constitution of India and consequently direct the respondents to pay the difference of gratuity and earned leave wages from the date of removal till the date of reinstatement i.e., from 13-09-1973 till the date of reinstatement in the interest of justice and fair play.

Counsel for the Petitioner :Mr.V.NARASIMHA GOUD

Counsel for the Respondents : MR.V.T.M.PRASAD

The Court at the stage of admission made the following :

ORDER:

Seeking to declare the impugned proceeding No.P2/785(16)/04-SRPT, dated 03-11-2004 served on the petitioner on 11-11-2004 as illegal and unjust in violation of Art.14, 16 and 21 of the Constitution of India and for a consequential direction to the respondents to pay the difference of gratuity and earned leave wages from the date of removal till the date of reinstatement i.e., from 13-09-1973 till the date of reinstatement, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

Learned counsel for the respondents contended that in case of any employee, the period of absence can be taken for payment of gratuity, but the same cannot be taken as encashment of earned leave. The matter is squarely covered by an unreported judgment of this court in W.A.No.1125/2002 dated 22-08-2003 wherein it was held:

> "In such view of the matter, there is absolutely no justification whatsoever on the part of appellant Corporation not to treat the period of absence as qualified service for the purpose of payment of gratuity and encashment of earned leave."

Following the said judgment, the writ petition is allowed and the impugned proceedings are set aside. The respondents are hereby directed to pay the difference of gratuity and earned leave wages from the date of removal till the date of reinstatement within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

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K.C.BHANU, J.

Dated: 21..04..2005.

rns

To

1 The Regional Manager,

APSRTC, Nalgonda Region,

Nalgonda.

2 The Depot Manager,

APSRTC, Bus Depot,

Suryapet, Nalgonda District.

3 Two CD copies

4 One CC to MR.NARASIMHA GOUD